

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**REGINA ANKRAH and ISAAC OWUSU-
AFRIYIE, as CO-EXECUTORS OF THE
ESTATE OF ANGELINA OWUSU-
AFRIYIE,**

Plaintiffs,

v.

**THE UNITED STATES OF AMERICA,
KENNETH K. GERWECK, M.D., and
SANDRA L. SALERNO, R.N.**

Defendants.

**Civil No.
04-40249-FDS**

SHOW CAUSE ORDER

SAYLOR, J.

Upon review of the pleadings, the Court is uncertain as to whether there it has federal subject matter jurisdiction over this case. Jurisdiction is proper under the Federal Tort Claims Act only where the plaintiff has pleaded and proved compliance with 28 U.S.C. § 2401(b), which requires that the plaintiff have filed a written claim with the appropriate federal agency within two years of the accrual of the claim. *McNeil v. United States*, 508 U.S. 106, 112 (1993). 28 U.S.C. § 2675 requires that the plaintiff have received a final adverse decision on such claim prior to seeking money damages from the United States in federal court. The Complaint in this action states only that, “All statutory conditions precedent to filing suit have been met.” (Compl. ¶ 5.) As these are non-waivable jurisdictional requirements, the Court hereby **ORDERS** the plaintiff to show cause within 30 days of this Order why the jurisdictional requirements of 28 U.S.C. §§

2401(b) and 2675 have been met.

So Ordered.

/s/ F. Dennis Saylor
F. Dennis Saylor IV
United States District Judge

Dated: July 20, 2005